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Summary

The Further Notice apparently considers the local usage component of universal service from two different perspectives: (a) the estimation of provider costs in order to determine appropriate support levels and (b) an eligibility requirement included in the package of basic services. AirTouch agrees with the Further Notice that these two measures of usage serve different purposes within the support mechanisms. The two roles of a local usage measure are not only separable, they have different values in a universal service program. Specifically, a) is essential to a well-functioning system of universal service support, while b) is antithetical to it.

AirTouch agrees that to ensure that support levels are sufficient, the model should include a local usage component. A local usage component is necessary to make the model neutral as to different technologies. Some technologies create higher costs for access, but have low per-minute costs. Other technologies have low access costs, but higher traffic-sensitive costs. Absent a local usage component, technologies with low access costs would appear to be unrealistically inexpensive. As AirTouch noted in its comments supporting "wireless threshold," cost models should reflect the forward-looking costs of the most efficient provider, regardless of technology.

In order to give any meaning to the Commission's competitive neutrality and cost model criteria, the cost proxy model should not assume unlimited "free" local usage – effectively biasing the model towards technologies which have low incremental costs for usage. For example, the Commission should not adopt its proposal to model costs assuming the number of minutes per month used by the average customer subscribing to flat-rate local service. Customers who obtain unlimited free calling have no incentives to limit their network usage and this figure would reflect that fact, effectively biasing the model toward technologies with low incremental usage costs.

In determining what level of service to support, the Joint Board and the FCC considered four criteria set forth in the Communications Act. AirTouch submits that the cost proxy models should assume a measure of local usage determined in the same way as the other elements: by looking to the principles of Section 254 and the recommendations of the Joint Board. AirTouch believes that Bell Atlantic's assumption of 500 minutes of local usage per month is a reasonable basis on which to model costs.

This level of usage is sufficient to meet most educational and safety needs, it is available from most carriers at a reasonable cost, and reasonably approximates a customers market choice. On the other hand, unlimited local usage meets none of the Act's criteria. Unlimited usage is not essential to education, health or safety. And it cannot be said that they have done so by the operation of market choices – more likely, they have done so because of regulatory subsidization of local usage. The Commission

should not assume unlimited usage in its own model, and decline to approve any state cost model that includes such a discriminatory assumption.

The other possible role for a measure of local usage is to require some amount of free local usage as a requirement for a service to be eligible to receive support. The Commission expresses concerns that, absent a local usage eligibility requirement, consumers might not receive the benefits of universal service because carriers receiving support might charge high per-minute rates and thus prevent service from being "affordable." Neither the Commission nor the states should impose such a condition of eligibility on new entrants. To do so would be inefficient, violate competitive neutrality, and reduce the benefits of competition in the local exchange market.

The Commission's concern that a new entrant could somehow receive excessive subsidies for providing service at high-per minute fees that customers find unaffordable or unattractive will be more than adequately addressed by competition. Competing eligible carriers will be unable to attract customers away from the ILEC if they offer services which are priced less attractively. Regulation of price structures would in fact limit markets' ability to respond to consumer choices and reduce consumers' range of options.

The situation of a competitive market is, of course, very different from that of a market controlled solely by an entrenched ILEC with significant market power. The Commission should adopt measures to address the local usage issue for an incumbent LEC that is the sole provider of universal service in a given area. However, where an ILEC retains its original service offerings, this regulation need not apply to an ILEC's new service options for the same reasons that regulation need not apply to a new entrant. Customers who find the new service option less attractive than that of the original ILEC price structure will simply retain their existing arrangements.

Where the Commission designs technology-neutral cost models to determine the level of subsidy, how competing carriers choose to recover their costs is not something that must be regulated in order to ensure competitive neutrality or create efficiency. On the contrary, imposing a requirement to price services in a particular way is likely to violate competitive neutrality.

This is particularly true of some states, who have required all eligible carriers to offer unlimited local usage, priced through price structures of the same type offered by the incumbent LEC. These measures have effectively foreclosed competition from wireless carriers and regulated away the possibility of allowing market forces to govern. The Commission should make it explicitly clear that such eligibility criteria are inconsistent with the Communications Act and the Universal Service Order.

Unlimited local usage requirements are, in any case, inefficient. Even wireline local calling can impose traffic-sensitive costs. As numerous ILECs have claimed, application of this price structure to Internet usage creates traffic management problems.

*Comments of AirTouch Communications, Inc.
on Local Usage Issue - Section IV
October 17, 1997*

Efficient prices should reflect usage costs to ensure that consumers do not make calls that they value by less than the cost of those calls. Even if all carriers had the same charges and/or costs, it still would be efficient to limit the amount of subsidized calling to ensure that people do not wastefully use the network

**Before the Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Forward-Looking Mechanism)	
for High Cost Support for)	
Non-Rural LECs)	CC Docket No. 97-160
)	
)	
)	

**Comments of AirTouch Communications, Inc. on
Section IV.**

AirTouch Communications, Inc. ("AirTouch") respectfully submits the following comments on the Further Notice of Proposed Rulemaking in the above-captioned proceedings.¹ AirTouch is a wireless communications company with interests in cellular, paging, personal communications services, satellite, and other operations. AirTouch provides these comments on the Commission's examination of cost proxy models for a reformed universal service program, particularly on the local usage component.

INTRODUCTION

The Further Notice apparently considers the local usage component of universal service from two different perspectives: (a) the estimation of provider costs in order to determine appropriate support levels and (b) an eligibility requirement included in the

¹In the Matter of Federal-State Joint Board on Universal Service, Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45 and 97-160 (released July 18, 1997)("Further Notice").

package of basic services.² AirTouch agrees with the Further Notice that these two measures of usage serve different purposes within the support mechanisms.³ The two roles of a local usage measure are not only separable, they have different values in a universal service program. Specifically, a) is essential to a well-functioning system of universal service support, while b) is antithetical to it.

AirTouch agrees that to ensure that support levels are sufficient, the model should include a local usage component. A local usage component is necessary to make the model neutral as to different technologies. Some technologies create higher costs for access, but have low per-minute costs. Other technologies have low access costs, but higher traffic-sensitive costs. Absent a local usage component, technologies with low access costs would appear to be unrealistically inexpensive. These comments correlate with AirTouch's earlier comments explaining that the cost proxy models should include a "wireless threshold," to fully incorporate the principle that the model reflect the forward-looking costs of the most efficient provider.⁴

The other possible role for a measure of local usage is to require some amount of free local usage as a requirement for a service to be eligible to receive support. Neither the Commission nor the states should impose such a condition of eligibility on new entrants. To do so would be inefficient, violate competitive neutrality, and reduce the benefits of competition in the local exchange market. The Commission's concern that a new entrant could somehow receive excessive subsidies for providing service at high-per minute fees that customers find unaffordable or unattractive will be adequately addressed by competition. However, there is a public interest in defining a baseline of service where

²As the Commission noted in the Universal Service Order, it may also be necessary to define a local usage component under some forms of universal service competitive bidding mechanisms. Universal Service Order, para. 70. AirTouch is not addressing this issue here, but will direct discussion of that question to the separate proceeding on competitive bidding mechanisms.

³Further Notice, para. 180.

⁴Comments of AirTouch Communications on Section III.C.2.(f) (September 24, 1997).

the only eligible carriers is a dominant incumbent LEC that does not face significant competitive pressures for serving households and single-line businesses.

DISCUSSION

I. A Competitively Neutral Local Usage Element Should Be Included In The Cost Proxy Models

If the cost model is to estimate the forward-looking economic cost of universal service, the usage level of those services will certainly have an effect on costs and therefore on support levels.⁵ The cost model should therefore assume a competitively neutral level of usage. As the Commission has noted, “[w]ithout a prespecified amount of usage, it is not possible for forward-looking economic cost methodologies to determinate accurately the cost of serving customers in high cost areas.”⁶

- *The Level of Usage Assumed in the Cost Model Should Not Be Based on Usage Figures for Incumbent LEC Services.*

For purposes of developing a forward-looking cost model, AirTouch agrees that including a minimum level of usage is appropriate in modeling costs, since the level of usage will drive the costs of installing sufficient network capacity to meet demand. It is also reasonable to assume a single figure, provided that assumption is “competitively neutral.” But in order to give any meaning to the Commission’s competitive neutrality and cost model criteria, the cost proxy model should not assume unlimited “free” local usage – effectively biasing the model (and thus the support levels) towards technologies which have low incremental costs for usage.

⁵Since support levels are to be determined by the forward-looking economic costs minus a revenue benchmark, definition of the benchmark should also take into account the possibility that eligible carriers may have differing price structures, all of which can be considered “affordable.”

⁶Universal Service Order, para. 68.

For example, the Commission should not adopt its proposal to model costs assuming the number of minutes per month used by the average customer subscribing to flat-rate local service.⁷ Customers who obtain unlimited free calling have no incentives to limit their network usage and this figure would reflect that fact, effectively biasing the model toward technologies with low incremental usage costs. Defining the usage element with respect to incumbent LECs' measured-rate services fares only slightly better since it again relies on the existing price signals of incumbent LECs, which are affected by existing implicit subsidies, not on the price signals of an efficient competitive carrier.

- *A Definition of Local Usage In the Cost Proxy Model Should Be Based on the Principles of Section 254(c).*

The Commission has correctly established that the cost proxy model should be based on the forward-looking economic costs of providing consumers "access to telecommunications and information services" required by the Act.⁸ In determining what level of service to support, the Joint Board and the FCC considered four criteria set forth in the Communications Act. AirTouch submits that the cost proxy models should assume a measure of local usage determined in the same way as the other elements: by looking to the principles of Section 254 and the recommendations of the Joint Board.⁹

Again, this local usage definition should only be used as a neutral assumption for modeling costs – it should not be included as a condition of eligibility for new entrants. But by looking to the criteria and objectives of the Act, rather than actual ILEC usage levels, the Commission avoids cost modeling based on artificially low usage-based prices.

⁷ Further Notice, para. 179.

⁸ See, e.g., Universal Service Order, para. 224; 47 U.S.C. § 254(b)(3) (establishing principle that customers in rural and high-cost areas should have "access to telecommunications and information services...at rates that are reasonably comparable to rates charged for similar services in urban areas").

⁹ As the Commission notes, the legislative history indicates that Congress intended that the definition of services should be based on consideration of these four criteria. Universal Service Order, para. 59.

Looking to Section 254 requires the Commission to consider the extent to which a particular level of local usage meets the following criteria:

- a) it is "essential to education, public health, or public safety";
- b) it has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers (emphasis added);
- c) it has been deployed in public telecommunications networks by telecommunications carriers;
- d) it is consistent with the public interest, convenience and necessity.¹⁰

AirTouch believes that Bell Atlantic's assumption of 500 minutes of local usage per month is a reasonable basis on which to model the costs of universal service.¹¹ This level of usage is sufficient to meet most educational and safety needs. This level of usage is available at a reasonable cost from most public telecommunications carriers, and is a reasonable approximation of the level of usage customers would select given a balanced approach to access and usage-based charges. Finally, this approximation serves the public interest by striking a reasonable balance between providing end users with access to telecommunications services and keeping the social costs of the overall program to reasonable levels.

Unlimited local usage, on the other hand, meets none of the Act's criteria. Unlimited local usage is not essential to education, health or safety – all of these interests can be served and are being served without it. Even to the extent that a majority of residential customers subscribe to unlimited local usage calling plans, it cannot be said that they have done so by the operation of market choices – more likely, they have done so because of regulatory subsidization of local usage. And most public telecommunications networks are not designed for unlimited usage. Network engineers plan for specific capacity requirements based on expected demand and efficient cost control. Even circuit-switched wireline networks incur some traffic-sensitive costs, particularly at peak times.¹²

¹⁰47 U.S.C. § 254(c)(1)(A)-(D).

¹¹See Further Notice, para. 179, n.281.

¹²For example, in the LEC-CMRS interconnection proceeding, a number of competing economic studies addressed the costs of local usage of switched access services. See generally, LEC-CMRS

Finally, the public interest in universal service should be defined more in terms of necessity rather than convenience. In the Universal Service Order, the Commission correctly declined to define universal service to include advanced capabilities, or capacities, where they were not necessary to meet the criteria in the Act. This approach best implements Congress' intent to balance the interest in universal service with the interest in avoiding excessive support obligations for telecommunications carriers. Thus, for example, the Commission declined to require capacity and data transmission rate capabilities beyond voice grade access in the access component of the eligibility criteria.¹³ Similarly, the Commission should not assume excessive usage in the cost proxy models.

AirTouch recognizes that some state regulators have adopted an unlimited flat rate local usage pricing structure as a condition of eligibility. Thus, where such states do not develop their own cost proxy model, carriers in those states may incur costs differently than in the federal cost proxy model. First, AirTouch believes that such discriminatory eligibility conditions violate competitive neutrality and are inconsistent with the Communications Act and the Universal Service Order. This point is developed further in the section below. Moreover, the Commission's model should not simply attempt to reflect different policy decisions made in different states, but should represent the most economically meaningful and competitively neutral approach to cost modeling.

Federal leadership in this area is important. The proceedings and discussions begun with release of the Further Notice may in fact, serve as helpful information to states who are considering these issues. The same principle should apply to states who do develop their own cost models, but base those models on unlimited flat-rated local usage. As the

Interconnection, CC Docket 95-185 (Comments filed March 4, 1996). While disagreeing on some points, these studies generally agreed that LEC networks incurred traffic-sensitive costs of between \$0.002 and \$0.013 per minute, with costs higher during the busy hour. See, e.g., Gerald W. Brock, "The Economics of Interconnection: Incremental Costs of Local Usage (April 1995); Calvin S. Monson and Jeffrey H. Rohlf, "The \$20 Billion Impact of Local Competition in Telecommunications (Strategic Policy Research for United States Telephone Association, 1993).

¹³Universal Service Order, para. 64; Id., para. 83 (support for "Internet access" not necessary).

Commission noted in the Further Notice, states may develop their own cost studies, but that study must comply with the criteria outlined in the Universal Service Order, and must be approved for use by the Commission.¹⁴ Consequently, state cost models who base their cost assessment on discriminatory criteria such as unlimited local usage should not be approved. Consistent and firm action to preclude states from adopting unlimited local usage, either as a condition of eligibility, or as an input to a cost model, will both protect competitive neutrality and ensure that eligible carriers receive adequate support.¹⁵

Other issues raised in the Further Notice include:

- *What methodology should be used to determine the number of minutes?*
- *How, if at all, should Internet usage be factored into the calculation?*
- *Should the local usage element differ for residential and business services?*

AirTouch submits that there is no need for regulatory distinctions between local telephone and local data communications, to enter into the question of how the level of minutes is calculated. For purposes of calculating the costs of network usage, at least, “a minute is a minute” whether that minute is used to occupy a channel between the users’ phone and another telephone, a mobile telephone, a remote database, or an Internet server. Indeed, as many ILECs have noted, Internet usage exacerbates the inefficiencies associated with flat-rated local service pricing in the face of traffic-sensitive costs.¹⁶ The solution is not to impose new taxes on the Internet to subsidize flat-rated local usage, but instead to reform the pricing of local service to more accurately reflect costs. The Commission should start by designing a cost proxy model that reflects how costs are actually incurred, and that fosters technological evolution of the network.¹⁷

¹⁴See, e.g., Further Notice, para. 14.

¹⁵Also, to the extent that states impose permissible, non-discriminatory requirements which increase costs above the level assumed in a well-designed federal model, states must make provision for recovery of additional support from state mechanisms, not from the federal fund.

¹⁶ See, e.g., Access Charge Reform, CC Docket Nos. 94-1, 96-262, 91-213, 95-72, First Report and Order, FCC 97-158 (May 16, 1997), paras. 345-348 (Access Reform Order).

¹⁷Access Reform Order, para. 347.

Similarly, the model should not allow regulatory distinctions between residential and business services to distort its evaluation of the costs of local service. The cost model need not identify separate measures of usage for residential and business, but simply assume a uniform level of usage for each subscriber in the service area modeled. First, this simplifies the cost proxy models and reduces the data collection burden to a considerable degree. Additionally, the cost proxy model should not assume that business subscribers require a greater level of subsidy than do residential subscribers to compensate for this higher usage level.

Although business usage is generally higher than residential usage, carriers providing supported services to business need not receive additional subsidy payments to compensate for this fact. First, business usage is different in kind in that it is a deductible business expense for a revenue-generating concern. Residential usage, in contrast, is more likely to simply be social or educational usage. Business is thus able to bear the burden of higher calling volumes and does not require additional subsidy.¹⁸ In order to ensure that support levels are kept to reasonable levels, the Commission should design a cost model that reflects realistic assumptions about costs and affordability. Again, federal leadership is important. If a state elects to require carriers to offer subsidized rates for unlimited business calling minutes, it can make that policy choice, but it should not be allowed to impose that policy choice on a federal universal service program.

II. A Local Usage Eligibility Requirement Is Unnecessary

Although the Further Notice arguably is focused solely on the issue of developing a proper cost model, its discussion of local usage echoes that in the Universal Service Order concerning the set of services that must be offered in order to receive support. For example, the Commission expresses concerns that, absent a local usage eligibility requirement, consumers might not receive the benefits of universal service because carriers

¹⁸See also Universal Service Order, para. 55 (Commission agrees that level of universal service support should be no higher than necessary).

receiving support might charge high per-minute rates and thus prevent service from being “affordable.” It also expresses concern that such an eligibility requirement is necessary to avoid an “artificial advantage” for wireless carriers or others who have lower basic access costs and higher usage-based costs.¹⁹

AirTouch agrees that, where incumbent LECs receive subsidies, but face no competition, there will continue to be a public interest in defining a baseline level of usage to ensure affordable prices for households and single-line businesses. But in areas where eligible carriers compete, it is confusing why the Commission is apparently concerned about two inconsistent scenarios occurring simultaneously.

A wireless new entrant cannot compete with an ILEC for customers and yet price its service in a manner which is “unaffordable.” Where a wireless carrier provides service as a new entrant eligible carrier, there will be sufficient incentives to make services affordable, not the least of which will be competition from the incumbent LEC. And “competitive neutrality” does not require government to dictate pricing structures, or to ensure that carriers recover their costs of service costs in identical ways. Just the opposite, regulation of price structures will restrict consumer options and violate competitive neutrality.

- *Local Usage as an Eligibility Requirement Is Not Necessary To Ensure Affordable Prices for Consumers*

It is highly unlikely that customers in the same geographic area will simultaneously suffer from both excessive prices and excessive competition. Where there is competition, particularly from an incumbent LEC -- who will have numerous advantages including nearly 100 percent market share -- new carriers will not be able to attract subscribers while charging unaffordable rates. If a CLEC offers rate levels and structures that are less desirable than those of the ILEC, then consumers will choose to remain as subscribers to

¹⁹Further Notice, para. 177.

the ILEC's services. Thus, there is no danger that a CLEC will collect subsidy revenues for the provision of unaffordable services.

Consider, for example, a wireless carrier providing service as an eligible carrier. This carrier will face competition from an ILEC and perhaps other competing carriers. In light of this competition, there is no public interest in blocking a wireless provider from being an eligible provider of a service that has a lower access price and higher usage-based charge than the schedule offered by the ILEC. If the wireless carrier offers services that consumers find less desirable, they will not switch to that carrier. On the other hand, the fact that some customers do switch to the wireless carrier's service demonstrates that they *prefer* the wireless carrier's rate plan and that it *better* meets their communications needs.

- *Local Usage as an Eligibility Requirement Will Inefficiently Limit Consumer Choice*

The fundamental logic of competition discussed above demonstrates that there is no need for government regulation of the price structures of new entrants. Regulation is in fact unlikely to ensure just and reasonable price structures as effectively as competition. Regulation could instead inefficiently reduce consumer choices and distort market outcomes. Customers should be free to decide what price structures meet their needs. Competing eligible carriers should be free to offer price plans that are similar or different to those offered by the ILEC, developed by business judgment in response to household and business users demands. Competition is, as the Commission has generally recognized, superior to regulation in identifying and responding to customer needs.

The situation of a competitive market is, of course, very different from that of a market controlled solely by an entrenched ILEC with significant market power. The Commission should adopt measures to address the local usage issue for an incumbent LEC that is the sole provider of universal service in a given area. However, where an ILEC retains its original service offerings, this regulation need not apply to an ILEC's new service options for the same reasons that regulation need not apply to the offerings of a

new entrant. Customers who find the new service option less attractive than that of the original ILEC price structure will simply retain their existing arrangements.

But the problem of ILEC market power is exacerbated by the Commission's decision to continue to subsidize all existing ILEC lines that currently receive support.²⁰ Given the decision to subsidize second lines, ILECs have incentives to offer customers a "bare minimum" service at reduced rates simply to qualify for additional subsidies. Where an ILEC can receive a subsidy payment based on the cost of full universal service, for offering something which in fact costs much less, subsidy payments will be excessive. This is made more likely by the fact that subscribers can retain their existing primary service at subsidized rates. As long as the cost of a service is lower than the subsidy payment received, ILECs could offer inferior second line services practically for free, and profit from receiving subsidies based on the costs of a more robust service. This result would clearly inflate subsidy levels and not serve the public interest.

- *Local Usage as an Eligibility Requirement Will In Fact Violate Competitive Neutrality*

AirTouch agrees that eligibility requirements should be competitively neutral as between carriers with higher and lower traffic-sensitive costs. But there is no basis for the Commission's concern that a local usage eligibility requirement is necessary to avoid an "artificial advantage" for wireless carriers or others who have lower basic access costs and higher usage-based costs.²¹ The discussion of this issue in the Universal Service Order to which the Further Notice refers appears to confuse the two roles of a local usage measurement. As noted above, universal service cost models should include a local usage

²⁰ AirTouch urges the Commission to move quickly to end these subsidies, or at least minimize the problem by subsidizing second lines by a significantly smaller amount. AirTouch notes that the Commission has already received comment on the question of defining a primary line for purposes of differing access charge payments; the record in that proceeding should also inform the question of defining a primary line for purposes of differing explicit subsidy payments. See Notice of Proposed Rulemaking, CC Docket No. 97-181, FCC 97-316 (September 5, 1997).

²¹ Further Notice, para. 177.

measurement so as to model costs neutrally between “access” and “usage” costs, thereby not favoring a particular technology. But this is an entirely different issue than whether all carriers must offer some amount of local usage on a flat-rated basis in order to be eligible for subsidies.

Where the Commission designs technology-neutral cost models to determine the level of subsidy,²² how competing carriers choose to recover their costs is not something that must be regulated in order to ensure competitive neutrality. It is difficult to see how differences in price structures translate into an “artificial” advantage in a competitive market. Competitors whose pricing structures are more attractive to consumers may have an advantage, but it is not an “artificial” advantage that should be addressed by regulation. As discussed above, in order to promote efficiency, encourage new entry, and allow markets to work, neither the cost model estimate nor the local usage eligibility criteria should dictate prices or price structures. Even where some eligible carriers, such as incumbent LECs, remain subject to state regulation of local service prices or price structures, universal service mechanisms should not have the effect of subjecting other competitive carriers to the same regulations.²³

Nonetheless, some state regulators have adopted an unlimited flat rate local usage pricing structure as a condition of eligibility. These states appear to presume that universal service programs should preserve the incumbent LEC’s pricing structure. But by requiring an unlimited flat rate local usage pricing structure as a condition of eligibility, these states have effectively foreclosed eligibility for wireless carriers. Of course, in some

²²Cost models should, of course, only be “technology-neutral” in the sense that they are designed based on the forward-looking cost of the most efficient, least-cost technology available. See, e.g., Universal Service Order, para. 250; Further Notice, para. 13, n.39.

²³See also Universal Service Order, para. 147 (noting that carriers not subject to state rate regulation are eligible for designation as an eligible carrier).

cases this may be the intended result – some state universal service programs are intended to protect ILECs from any significant revenue dislocation caused by competition.²⁴

True competitive neutrality does not mean simply imposing the same requirements on all carriers. For example, if the Commission were to make mobility a requirement of universal service support, the regulation would apply to all carriers, but it would not be a competitively neutral regulation. Wireline technologies would clearly be disadvantaged. Nevertheless, the State of California has concluded that if they want to compete in the local exchange market, wireless providers should be required to offer basic service in the same type of pricing formats offered by wireline carriers.²⁵ This approach has effectively made it uneconomic for wireless carriers to become local exchange competitors and precluded competing eligible carriers from offering price or service options that consumers might find more attractive.

Fortunately, the Commission (and some other states) have been more careful to avoid policies that foreclose competition, recognizing that the universal service provisions of 1996 Act were intended to ensure affordable local service, not to insulate ILECs from competition from competing carriers.²⁶ AirTouch urges the Commission to follow that principle here. If the Commission yields to political pressures to preserve existing pricing

²⁴State legislators and regulators in Kansas even went so far as to incorporate a principle of “revenue neutrality” to protect ILECs from any revenue losses while imposing the cost of any revenues lost to competition on other providers and consumers. Fortunately, this approach was overruled by a state court of appeals decision. See Citizens Utility Ratepayer Board v. Kansas Corporation Commission, No. 78-548, et seq., Kansas Court of Appeals (1997).

²⁵Decision 96-10-066, California Public Utilities Commission (October 25, 1996), at 29. Even more strangely, the CPUC did so because many consumers had expressed their interest in having a choice between flat rate and measured rate service plans, and the CPUC wanted to preserve these customer choices. The CPUC apparently believes that regulation is superior to competitive markets in responding to customer demands.

²⁶See, e.g., Universal Service Order, para. 51 (promoting competition is an underlying goal of the 1996 Act, and adopting a principle of “competitive neutrality” to govern universal service mechanisms); Universal Service Order, para. 364-365. The Commission notes that this competitive neutrality criteria is related to the obligations of CMRS providers to contribute to these support mechanisms. Id.

structures through regulatory fiat, universal service mechanisms will reduce the likelihood of local competition and deny consumers the benefits of service and pricing options.

Finally, as discussed above, an unlimited local usage requirement would be inefficient because of the presence of traffic-sensitive costs. In a circuit-switched world with limited capacity, even wireline local calling can impose traffic-sensitive costs. Efficient prices should reflect these costs to ensure that consumers do not make calls that they value by less than the cost of those calls. Even if all carriers had the same charges and/or costs, it still would be efficient to limit the amount of subsidized calling to ensure that people do not wastefully use the network.

III. Cost Proxy Models Should Be Updated By Evaluating Objective Data

The Commission also asks for comment on how, if at all, it should update support levels over time.²⁷ The method of updating the cost proxy model raises numerous incentive issues similar to those raised in the periodic review of price cap productivity factors, rate-of-return represcriptions or other similar proceedings. In those proceedings, the Commission has adopted principles that require any data to be publicly available and independently verifiable, and that any proposed revisions to economic studies be economically meaningful.²⁸ The Commission should adopt similar criteria for evaluating any proposed updates to the cost proxy models.

Also, any updates to the cost proxy models must be supported by information and argument demonstrating that the forward-looking costs of a carrier using the most efficient technology would be different, using contemporary technology. It is vital that carriers not be able to command increased support levels based on claims -- however well documented -- that their particular costs have risen. To permit such increases in support would fundamentally undermine the forward-looking approach the Commission has

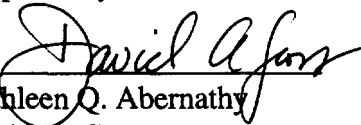
²⁷Further Notice, para. 173.

adopted. Rather, it would return the Commission to a cost-plus regulatory system and all of the attendant distortions the Commission has worked so hard to avoid.

CONCLUSION

The Commission should include an appropriate, competitively neutral local usage element in the cost proxy model to account for differences in traffic-sensitive costs created by different types of technology, i.e., wireline v. wireless. However, a local usage element is not appropriate to include as an eligibility requirement. Competing eligible carriers have sufficient incentives to make rates affordable; customers should have available a variety of pricing plans from which to choose. In particular, including a requirement to offer unlimited local calling would not be competitively neutral, would bias universal service eligibility in favor of incumbent LECs, and would be economically inefficient.

Respectfully submitted,

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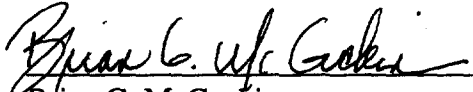
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²⁸See, e.g., Fourth Further Notice of Proposed Rulemaking, Price Cap Performance Review, CC Docket 94-1 (July 1995).

Certificate of Service

I hereby certify that a copy of the foregoing comments of AirTouch Communications, Inc. was sent by hand or by United States first-class mail, postage prepaid, on this the 17th day of October, 1997 to the parties on the attached list.


Brian G. McGuckin

October 17, 1997

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